



**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)
APPEAL DECISION**

FEMA Flood Insurance Appeal Decision #C2

OVERVIEW

The policyholder, through their representative (hereinafter “policyholder”), filed an appeal in September 2020, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied all of their claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to covered property arising from a flood event dated July 2020.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$500,000 of building coverage and \$50,000 of personal property coverage.
- The insured property is a four-story commercial building with tenant offices on the main and lower levels of the building and residences on the upper two floors of the building.
- Following the flood loss, the policyholder filed a claim with the insurer and the insurer assigned an adjuster to inspect the property.
- On July 2020, the adjuster inspected the property and found no exterior waterlines to the building. The adjuster determined no flood water entered the building. The adjuster observed damages to a brick wall on the front left corner of the building located on the exterior walkway. The policyholder denied the adjuster the opportunity to inspect the interior of the building.
- Following the inspection, the policyholder submitted photographs of street flooding and interior of the kitchen. The adjuster observed ceiling damage in the kitchen and determined the ceiling damage was not caused by or from flood.
- In a letter dated August 2020, the insurer denied coverage for building damages due to no direct physical loss by or from flood. The insurer also denied coverage for the walkway located outside of the building, as the walkway is not covered under the SFIP and is not a direct physical loss by or from flood.
- The policyholder appeals the insurer’s denial of coverage. In support of their appeal, the policyholder submits a one-page statement from an architect and estimates for the interior and exterior of the building.
- Because this information does not respond to the insurer’s reason for denial, FEMA’s decision is based on the documentation in the claim file.

¹ See 44 C.F.R. § 61.13 (2019); General Property Form available at 44 C.F.R. pt. 61 App. A(2) [hereinafter “SFIP”].

² The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

RULES

The insurer agrees to pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complies with all terms and conditions of the SFIP.³

The SFIP does not cover the following property: walks, decks, or other surfaces whether protected by a roof or not, located outside the perimeter exterior walls of the insured building. The SFIP also does not cover retaining walls, seawalls, bulkheads, wharves, piers, and docks.⁴

The SFIP requires the insurer or their representative be shown the damaged property.⁵

The SFIP requires the policyholder to provide a signed and sworn-to proof of loss and all bills, receipts, and related documentation fully supporting the amount claimed.⁶

ANALYSIS

The policyholder appeals the insurer's denial of coverage for building damages and the retaining wall located outside of the building.

The SFIP requires the insurer or their representative be shown the damaged property. Here, the policyholder denied the adjuster the opportunity to inspect the building's interior for flood related damages. FEMA's review finds the policyholder prejudiced the investigation of the claim by not allowing the insurer the opportunity to examine the damaged property.

The insurer agrees to pay the policyholder for direct physical loss by or from flood. Here, the policyholder submitted photographs of the interior of the building after the inspection. The adjuster determined no flood water entered the interior of the building. The adjuster also determined the damages to the interior of the building were not flood related, as the observed damages were confined to a small area on the ceiling. For these reasons, FEMA's review finds the insurer properly denied coverage for building damages, as the observed building damages are not a direct physical loss by or from flood.

The SFIP does not cover the following property: walks, decks, or other surfaces whether protected by a roof or not, located outside the perimeter exterior walls of the insured building. The SFIP also does not cover retaining walls, seawalls, bulkheads, wharves, piers, and docks. Here, the adjuster observed damages to a brick wall on the front left corner of the building located on the exterior walkway. However, the adjuster determined the damages were not flood related, as the damages were located above the flood water. FEMA's review finds no evidence that shows flood water damaged the retaining wall that supports the walkway. The adjuster also determined the walkway was not within the building and not part of the building's foundation. The policyholder's architect contends the retaining wall appears to be part of the structural wall system. However, FEMA's review finds the architect provided no inspection report containing construction science, measurements, or photographs supporting his contention the retaining wall is part of the structural wall system. For these reasons, FEMA's review finds the insurer properly

³ See SFIP (I), (II)(B)(12).

⁴ See SFIP (IV)(9) and (12).

⁵ See SFIP (VII)(K)(1)(a).

⁶ See SFIP (VII)(J)(3)-(5).

denied coverage for the retaining wall, as the retaining wall is not covered under the SFIP and was not damaged by or from flood.

The SFIP requires the policyholder to provide a signed and sworn-to proof of loss and all bills, receipts, and related documentation fully supporting the amount claimed. If the policyholder still disagrees with the insurer's denial of coverage, the policyholder should provide documentation directly to the insurer supporting the damaged items were a direct physical loss by or from the subject flood event.

CONCLUSION

Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny coverage for building damages due to no direct physical loss by or from flood and the retaining wall located on the walkway, as the retaining wall is not covered under the SFIP.